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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 160229157-6481-01]

RIN 0648-BF84

Fisheries of the Exclusive Economic Zone Off Alaska; Chinook Salmon Bycatch Management in the Gulf of Alaska Trawl Fisheries; Amendment 103

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 103 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). If approved, Amendment 103 and this proposed rule would allow NMFS to reapportion unused Chinook salmon prohibited species catch (PSC) within and among specific trawl sectors in the Central and Western Gulf of Alaska (GOA), based on specific criteria and within specified limits. This proposed rule would not increase the current combined annual PSC limit of 32,500 Chinook salmon that applies to Central and Western GOA trawl sectors under the FMP. This proposed rule would provide for more flexible management of GOA trawl Chinook salmon PSC, increase the likelihood that groundfish resources are more fully harvested, reduce the potential for fishery closures, and maintain the overall Chinook salmon PSC limits in the Central and Western GOA. Amendment 103 is intended to promote the

goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

DATES: Submit comments on or before [*INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER***].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2016-0023, by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2016-0023*, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (hereafter “Analysis”) prepared for this action; the Environmental

Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (collectively, Amendment 97 Analysis) prepared for Amendment 97 to the FMP; and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (collectively, Amendment 93 Analysis) prepared for Amendment 93 to the FMP are available from <http://www.regulations.gov> or from the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

An electronic copy of the November 30, 2000, Biological Opinion on the effects of the Alaska groundfish fisheries on Endangered Species Act (ESA)-listed species is available at <http://alaskafisheries.noaa.gov/protectedresources/stellers/plb/default.htm>.

Written comments regarding the approved collection-of-information requirements referenced in this proposed rule may be submitted to NMFS at the above address and by e-mail to OIRA_Submission@omb.eop.gov or fax to 202-395-5806. All currently approved NOAA collections of information may be viewed at http://www.cio.noaa.gov/services_programs/prasubs.html.

FOR FURTHER INFORMATION CONTACT: Jeff Hartman, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the U.S. Exclusive Economic Zone (EEZ) of the GOA under the FMP. The North Pacific Fishery Management Council (Council) prepared, and NMFS approved, the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

The Council has submitted Amendment 103 for review by the Secretary of Commerce, and a notice of availability of the FMP amendment was published in the

Federal Register on May 26, 2016, (81 FR 33456) with written comments on the FMP amendment invited through July 25, 2016. All relevant written comments received by the end of the comment period, whether specifically directed to the FMP amendment, this proposed rule, or both, will be considered in the approval/disapproval decision for Amendment 103 and addressed in the response to comments in the final decision.

The following sections of the preamble describe 1) the management areas and fisheries affected by this proposed action; 2) the management of Chinook salmon PSC in the GOA trawl fisheries; 3) the rationale for Amendment 103 and this proposed rule; and 4) the provisions of this proposed rule.

Management Areas and Fisheries Affected

This proposed rule would apply to federally-permitted vessels fishing in the Central and Western Reporting Areas of the GOA (referred to in the remainder of the preamble as the Central and Western GOA). The Central and Western Reporting Areas, shown in Figure 3 to 50 CFR part 679, consist of the Central and Western Regulatory Areas in the EEZ (Statistical Areas 620 and 630 correspond to the Central GOA, and Statistical Area 610 corresponds to the Western GOA) and the adjacent State of Alaska (State) waters. The specific boundaries between State waters and the EEZ are provided on the NMFS Alaska Region website at

<https://alaskafisheries.noaa.gov/sites/default/files/fig3.pdf>. This proposed rule would not apply to federally-permitted vessels fishing in the Eastern Reporting Area of the GOA, which consists of Statistical Areas 640, 649, 650, and 659 in the EEZ and the adjacent State waters.

This proposed rule would apply to federally-permitted trawl vessels fishing for pollock and non-pollock groundfish that are managed under total allowable catch (TAC) limits in Federal waters and under the State's parallel groundfish fisheries in State waters. Parallel groundfish fisheries are fisheries that occur in State waters where the catch of groundfish is debited from the Federal TAC. Parallel groundfish fisheries are opened and closed by the State concurrently with adjacent Federal fisheries. Parallel fisheries are managed by the State under rules similar to those that apply in the Federal fisheries. The parallel fisheries that would be affected by this action include the GOA State trawl fisheries for groundfish species that occur in State waters in the Central and Western GOA. Additional detail on State parallel fisheries is provided in Section 1.3 of the Analysis.

In the Central and Western GOA, trawl vessels target multiple groundfish species and are categorized by whether they participate in the directed fishery (i.e., targeted) for pollock or other "non-pollock" species. Section 679.2 defines the term directed fishing. Non-pollock species include arrowtooth flounder, deep-water flatfish, flathead sole, Pacific cod, rex sole, rockfish, sablefish, shallow-water flatfish, and other groundfish species. Many of the non-pollock trawl vessels catch and retain multiple groundfish species in a single fishing trip. Section 3.4.2 of the Analysis provides additional detail on the pollock and non-pollock trawl fisheries in the Central and Western GOA.

Section 303(a) of the Magnuson-Stevens Act, the FMP, and regulations at 50 CFR 679.20(c) require that the Council recommend and NMFS specify an overfishing level (OFL), an acceptable biological catch (ABC), and a total allowable catch (TAC) for each stock or stock complex (i.e., each species or species group) of groundfish on an annual

basis. The OFL is the level above which overfishing is occurring for a species. The ABC is the level of a species's annual catch that accounts for the scientific uncertainty in the estimate of OFL and any other scientific uncertainty. The ABC is set below the OFL. The TAC is the annual catch target for a species, derived from the ABC by considering social and economic factors and management uncertainty. The TAC must be set lower than or equal to the ABC. The TACs for some species are subject to further apportionment on a seasonal basis and among vessels using specific types of gear in the GOA (see regulations at § 679.20(a)). NMFS closes directed fisheries when a TAC or seasonal apportionment of TAC is reached, and restricts fishing in other fisheries that may incidentally take a species or species group approaching its OFL.

The final 2016 and 2017 harvest specifications for the GOA (81 FR 14740, March 18, 2016) establish the current TAC amounts and apportionments of pollock and other groundfish fisheries. Only catcher vessels (CVs) are authorized to participate in the directed fishery for pollock (see § 679.20(a)(6)(i)). Pollock in the Central and Western GOA is allocated entirely to CVs, and trawl CVs fish for these allocations. This proposed rule defines the Central and Western GOA pollock trawl CV fisheries as the Central GOA and Western GOA pollock sectors.

The non-pollock fisheries in the Central and Western GOA are harvested by vessels using trawl and non-trawl gear (i.e., hook-and-line, jig, and pot gear). This proposed rule categorizes the non-pollock trawl fisheries into three distinct sectors: the trawl catcher/processor (C/P) sector; the Rockfish Program catcher vessel (CV) sector; and the non-Rockfish Program CV sector.

The trawl C/P sector includes trawl C/Ps that participate in a range of non-pollock groundfish fisheries in the Central and Western GOA such as arrowtooth flounder, deep-water flatfish, flathead sole, rex sole, rockfish and sablefish.

The Rockfish Program CV sector includes any CV fishing for groundfish, other than pollock, with trawl gear in the Western or Central GOA and operating under the authority of a Central GOA Rockfish Program cooperative quota permit. The Central GOA Rockfish Program is a limited access privilege program that authorizes vessels to fish for a variety of rockfish species, Pacific cod, and sablefish in the Central GOA. Additional detail on the Central GOA Rockfish Program and the Rockfish Program CV sector is provided in Section 1.1 of the Analysis, and the final rule implementing the Central GOA Rockfish Program (76 FR 81248, December 27, 2011).

The non-Rockfish Program CV sector is defined as any catcher vessel fishing for groundfish, other than pollock, with trawl gear in the Western or Central reporting area of the GOA and not operating under the authority of a Central GOA Rockfish Program CQ permit assigned to the catcher vessel sector.

Section 3.4.2.1 of the Analysis describes the vessels participating in the five sectors (Central GOA pollock, Western GOA pollock, trawl C/P, Rockfish CV, and Non-Rockfish Program CV) in the Central and Western GOA.

Management of Chinook Salmon PSC Limits in the GOA Trawl Fisheries

The Council designated Pacific salmon and several other species (Pacific halibut Pacific herring, steelhead trout, king crab, and Tanner crab) as prohibited species in the Gulf of Alaska (Section 3.6.1 of the FMP). Prohibited species catch are species taken incidentally in the groundfish trawl fisheries and designated as “prohibited species”

because they are targets of other, fully utilized domestic fisheries. The Council has recommended and NMFS has implemented various measures to control the catch of such prohibited species. Prohibited species catch incidentally caught while directed fishing for groundfish in GOA may not be sold or kept for personal use and must be discarded with a minimum of injury (see § 679.21(b)(2)). A limited exception to this discard requirement for PSC is provided for donations of halibut and salmon made under the Prohibited Species Donation program (see § 679.26). For purposes of PSC management, Pacific salmon are divided into Chinook salmon and non-Chinook salmon.

Chinook salmon is a culturally and economically valuable species that is fully allocated and managed by the State of Alaska and the federal government. Sections 3.6 and 3.7 of the Analysis summarize salmon fishery management and describe the importance of the commercial, recreational, and subsistence Chinook salmon fisheries. The Council has recommended and NMFS has established management measures to constrain Chinook salmon PSC in the GOA groundfish fisheries. Most of the measures apply to the Central and Western GOA groundfish trawl fisheries because most of the Chinook salmon PSC in the GOA occurs in those fisheries. Amendments 93 and 97 to the FMP are the two most relevant measures. The following section describes these two amendments and their implementing regulations in greater detail.

Amendments 93 and 97: PSC limits in the Pollock and Non-Pollock Trawl Fisheries

In August 2012, NMFS implemented Amendment 93 to establish Chinook salmon PSC limits for the directed pollock trawl fisheries in the Central GOA and Western GOA (77 FR 42629, July 20, 2012). Amendment 93 established an annual Chinook salmon PSC limit for the directed pollock fishery in the Western GOA (i.e., the Western GOA

pollock sector) of 6,684 Chinook salmon, and an annual Chinook salmon PSC limit for the directed pollock fishery in the Central GOA (i.e., the Central GOA pollock sector) of 18,316 Chinook salmon. For the Central and Western GOA pollock sectors, the combined annual Chinook salmon PSC limit is 25,000 Chinook salmon.

Once the PSC limit is reached in the Central GOA pollock sector or Western GOA pollock sector, NMFS closes directed pollock fishing for that particular sector. Amendment 93 is described in more detail in the final rule implementing Amendment 93 (77 FR 42629, July 20, 2012). The Regional Administrator of NMFS is the person authorized to close a groundfish sector or fishery. For simplicity, this preamble uses the term “NMFS” to refer to actions that may be undertaken by the Alaska Regional Administrator.

In January 2015, NMFS implemented Amendment 97 to establish Chinook salmon PSC limits for the non-pollock trawl fisheries in the Central and Western GOA (79 FR 71350, December 2, 2014). Amendment 97 included a long-term average annual Chinook salmon PSC limit of 7,500 Chinook salmon allocated among three non-pollock trawl sectors: 1) the Trawl C/P sector; 2) the Rockfish Program CV sector; and 3) the Non-Rockfish Program CV sector. Chinook salmon PSC use and allocations in each of these non-pollock sectors are described in greater detail in Section 4.4 of the Amendment 97 Analysis and in the final rule implementing Amendment 97 (79 FR 71350, December 2, 2014).

Amendment 97 divided the 7,500 non-pollock Chinook salmon PSC limit into 3,600 Chinook salmon for the Trawl C/P sector, 1,200 Chinook salmon for the Rockfish Program CV sector, and 2,700 Chinook salmon for the Non-Rockfish Program CV

sector. If a sector reaches or is projected to reach its Chinook salmon PSC limit, NMFS will close directed fishing for all non-pollock groundfish species by vessels in that sector for the remainder of the calendar year. The rationale for the Chinook salmon PSC limits selected for each of the three sectors is described in detail in the proposed and final rules implementing Amendment 97 (respectively, 79 FR 35971, June 25, 2014; 79 FR 71350, December 2, 2014).

The Trawl C/P sector in the Central and Western GOA is the only trawl sector under Amendment 97 that has its annual Chinook salmon PSC limit (3,600 Chinook salmon) divided into a seasonal PSC apportionment (see § 679.21(i)(3)(ii)(A)). Prior to June 1 of each year, the Trawl C/P sector is prohibited from catching more than 2,376 Chinook salmon when the sector's annual PSC limit is set at 3,600 PSC, and 2,693 Chinook salmon when its annual PSC limit is set at 4,080 Chinook salmon (due to a carry-over from the incentive buffer, described below). The Chinook salmon seasonal PSC limit helps the Trawl C/P sector participate in directed fisheries at different times of the year and not exceed its annual Chinook salmon PSC limit.

Amendment 97 also implemented an incentive buffer to allow the Trawl C/P sector and Non-Rockfish Program CV sector to access additional PSC if a previous year's Chinook salmon PSC did not exceed a threshold standard. The incentive buffer allows the annual Chinook salmon PSC limit for the Trawl C/P and Non-Rockfish Program CV sectors to vary depending on the amount of Chinook salmon PSC taken by those sectors in the previous year. For example, if the Non-Rockfish Program CV sector maintains an annual PSC amount equal to or less than 2,340 in one year, that sector would receive up to 3,060 Chinook salmon as its PSC limit in the following year. This

feature allows for variability in Chinook salmon PSC levels, while providing an incentive to minimize PSC. The final rule implementing Amendment 97 describes the incentive buffer in greater detail (79 FR 71350, December 2, 2014).

Many of the trawl CVs operating under Amendment 97 are eligible to participate in the Central GOA Rockfish Program (76 FR 81248, December 27, 2011). Catch of Chinook salmon PSC by the Rockfish Program CV sector is subtracted from the Chinook salmon PSC limit of 1,200 fish when a vessel is operating under the authority of a Rockfish Program Cooperative Quota permit (see regulations at § 679.5(r)(8)).

The Non-Rockfish Program CV sector is composed of non-pollock trawl CVs that are authorized to fish for groundfish in the GOA and that are not fishing under the authority of a Rockfish Program Cooperative Quota Permit. This sector fishes primarily for Pacific cod in the Central and Western GOA and for arrowtooth flounder, deep-water flatfish, flathead sole, rex sole, and shallow-water flatfish in the Central GOA.

Under Amendment 97, NMFS is required to reapportion all the Rockfish Program CV sector's unused Chinook salmon PSC in excess of 150 Chinook salmon to the Non-Rockfish Program CV sector on October 1 of each year, and all remaining unused Chinook salmon PSC to the Non-Rockfish Program CV sector on November 15 of each year. However, under existing regulations, NMFS is not authorized to reapportion the GOA Chinook salmon PSC limit among the Trawl C/P sector and any of the CV trawl sectors.

Rationale for Amendments 93 and 97

The Council recommended, and NMFS implemented, Amendments 93 and 97 to meet a variety of policy objectives. The two policy objectives most applicable to this

proposed rule are to minimize Chinook salmon bycatch to the extent practicable while allowing the pollock fishery to harvest its TAC in the groundfish fisheries; and to avoid exceeding the annual Chinook salmon threshold of 40,000 that was identified in the incidental take statement accompanying the November 30, 2000, Biological Opinion on the effects of the Alaska groundfish fisheries on Endangered Species Act (ESA)-listed salmon of the Pacific Northwest (see **ADDRESSES**).

The Council recommended, and NMFS implemented, Amendments 93 and 97 after analyzing a range of alternatives that considered different Chinook salmon PSC limits and methods for apportioning Chinook salmon PSC limits. The analyses for Amendments 93 and 97, and the final rules implementing them (respectively, 77 FR 42629, July 20, 2012; 79 FR 71350, December 2, 2014) describe the alternatives considered and the rationale for selecting the specific Chinook salmon PSC limits and apportionments. The two most relevant factors considered by the Council and NMFS are briefly summarized here.

First, the Council and NMFS considered the importance of equity among user groups in the Central and Western GOA pollock and non-pollock trawl fisheries and the needs of Chinook salmon users. The Chinook salmon resource is of value to many stakeholders, including commercial, recreational, and subsistence user groups, and it is a resource that is currently fully utilized. The Council and NMFS implemented Chinook salmon PSC limits that would prevent harvest of Chinook salmon in excess of the current combined annual PSC limit of 32,500 fish.

Second, the Council recommended and NMFS implemented Chinook salmon PSC limits that reflected the long-term average annual use of Chinook salmon PSC in the

pollock and non-pollock fisheries. However, the Council and NMFS recognized that in some years, these Chinook salmon PSC limits could constrain groundfish harvests and impose costs on pollock and non-pollock trawl fishery participants. The Council and NMFS selected Chinook salmon PSC limits that reflect the long-term average use of Chinook salmon PSC as a trade-off between minimizing Chinook salmon and the potential for forgoing pollock and non-pollock catch.

Emergency Rule

Amendment 97 was implemented beginning on January 1, 2015. Under Amendment 97, NMFS established an annual Chinook salmon PSC limit of 2,700 Chinook salmon for the Non-Rockfish Program CV sector. On May 3, 2015, NMFS closed all directed fishing for groundfish by the Non-Rockfish Program CV sector after determining that the sector had exceeded its annual PSC limit of 2,700 Chinook salmon. The Non-Rockfish Program CV sector's use of Chinook salmon in the first few months of 2015 was significantly greater than expected based on the historical data available to the Council when it established this sector's Chinook salmon PSC limit under Amendment 97. Due to the directed fishing closure, significant amounts of non-pollock groundfish remained unharvested by the Non-Rockfish Program CV sector, resulting in significant negative economic effects on fishermen, shoreside processors, stationary floating processors, and communities that participate in this sector.

On August 10, 2015, NMFS implemented an emergency rule (see Analysis, Section 3.4.1.5) that provided the Non-Rockfish Program CV sector with an additional PSC limit of up to 1,600 Chinook salmon (80 CFR 47864, August 10, 2015). This Chinook salmon PSC limit, separate and distinct from the sector-based PSC limit of

2,700 established under Amendment 97, was anticipated to allow this sector to prosecute the Pacific cod and flatfish fisheries in the fall of 2015. The emergency rule expired on December 31, 2015.

The emergency rule re-opened fishing for the Non-Rockfish Program CV sector while continuing to limit the sector's total amount of Chinook salmon PSC. When the emergency rule expired, the sector had used only 4 of the additional 1,600 Chinook salmon PSC limit authorized under the emergency rule.

Rationale for Amendment 103 and this Proposed Rule

In June 2015, after recommending adoption of the emergency rule to provide an immediate increase of 1,600 Chinook salmon PSC to the Non-Rockfish Program CV sector, the Council analyzed alternatives to provide for more flexible use of Chinook salmon PSC limits established under Amendments 93 and 97. Under Amendments 93 and 97, a Chinook salmon PSC limit assigned to a pollock or non-pollock sector applies only to that sector. Existing regulations generally do not authorize NMFS to reapportion unused amounts of Chinook salmon PSC limits among the five pollock and non-pollock sectors. This proposed rule would allow NMFS to reapportion a limited amount of unused Chinook salmon PSC from the Rockfish Program CV sector to the non-Rockfish Program CV sector late in the year. Based on previous experience with reapportioning directed fishery allocations and various PSC species (e.g., halibut), the Council determined that fishery closures could be avoided or limited by authorizing NMFS to use inseason management actions to reapportion unused amounts of Chinook salmon PSC among the pollock and non-pollock sectors.

In December 2015, the Council recommended Amendment 103 to the FMP, which would allow NMFS to reapportion unused Chinook salmon PSC limits among the GOA pollock and non-pollock sectors established by Amendments 93 and 97. This proposed rule could prevent or limit fishery closures, such as the May 2015 closure of the Non-Rockfish Program CV sector, while maintaining the current combined annual limit of 32,500 Chinook salmon PSC. The Council determined that increasing the opportunities and flexibility for NMFS to execute inseason reapportionments of Chinook salmon PSC limits could achieve several goals without the need for revising the PSC limits established under Amendments 93 and 97.

The Council determined and NMFS agrees that this proposed rule to implement Amendment 103 would not increase the current combined annual Chinook salmon PSC limit of 32,500 Chinook salmon established for the Central and Western GOA under Amendments 93 and 97. It would increase the likelihood that groundfish resources are more fully harvested, and it would reduce the occurrence of fishery closures and resulting adverse socioeconomic impacts on harvesters, processors, and communities.

As highlighted in the Council's purpose and need statement, this action should 1) improve NMFS' inseason flexibility for reapportioning Chinook salmon PSC and minimize closures in the GOA, 2) be consistent with goals of Amendments 93 and 97 and maintain current PSC limits, 3) not exceed the incidental take threshold for ESA-listed Chinook salmon, and 4) balance competing social and economic interests.

Improve NMFS Inseason Flexibility for Reapportioning Chinook Salmon PSC and Minimize Closures

One goal of this proposed rule is to provide greater flexibility to reapportion GOA trawl Chinook salmon PSC limits during years of high or unusual Chinook salmon PSC without revising the individual sector PSC limits that are currently set in regulation. For example, Chinook salmon PSC could be reapportioned from the Central GOA pollock trawl sector to the non-pollock trawl CV sector after NMFS has determined that the remaining amount of the Central GOA pollock trawl sector's PSC limit is greater than the amount projected to be necessary to harvest the pollock TAC for the remainder of the year. In the same manner, this proposed rule would allow inseason reapportionment of Chinook salmon PSC from the non-pollock trawl fisheries to the pollock fisheries or among the three non-pollock trawl sectors.

Allowing Chinook salmon PSC limits to be reapportioned among sectors would provide NMFS with additional flexibility to allow the catch of available TAC, and in some circumstances would likely prevent or delay fishery closures or allow a closed fishery to reopen. Section 3.4.1.3.1 of the Analysis provides examples of how reapportioning unused Chinook salmon PSC among various sectors could have provided additional harvest opportunities in various sectors without exceeding the overall Chinook salmon PSC limits established under Amendments 93 and 97. Section 3.4.1.3.1 shows that, based on observed Chinook salmon PSC in 2015, the Non-Rockfish Program CV sector likely would have remained open after May 4, 2015, if NMFS had had the authority to reapportion unused Chinook salmon PSC.

Be Consistent with Goals of Amendments 93 and 97 and Maintain Current PSC Limits

In considering this proposed rule, the Council determined and NMFS agrees that the Chinook salmon PSC limits established in Amendments 93 and 97 continue to be the

most practicable Chinook salmon PSC limits for the Central and Western GOA trawl fisheries. The Chinook PSC limits established under Amendments 93 and 97 intentionally impose the risk of closure on a sector that approaches or exceeds its Chinook salmon PSC limit.

Based on historical Chinook salmon PSC use in the Central and Western GOA trawl fisheries and the variability in Chinook salmon PSC in recent years since the implementation of Amendment 97, a certain level of risk remains under this proposed rule that Chinook salmon PSC limits could close fisheries. After reviewing the historical Chinook salmon PSC data (see Section 3.4.1.3.2 of the Analysis), the Council determined and NMFS agrees that, in most years, the Central and Western GOA pollock sectors will fully harvest the available TACs under the Chinook salmon PSC limits established under Amendment 93.

Of the five sectors covered by Amendments 93 and 97, the three non-pollock sectors are more likely to be constrained by their Chinook salmon PSC limits because Amendment 97 set those three sectors' Chinook salmon PSC limits close to their historical use levels (see the final rule for implementing Amendment 97 (79 FR 71350, December 2, 2014)).

As with Amendments 93 and 97, this proposed rule is intended to minimize bycatch to the extent practicable. Several provisions of this proposed rule are designed to achieve that objective. For example, this proposed rule establishes a “cap” on the amount of reapportioned Chinook salmon PSC limit that a sector may receive in a single year. By capping the amount of PSC that can be received by a sector through a reapportionment, this proposed rule balances the goal of flexibility to reapportion

Chinook salmon PSC limits with the goal to minimize PSC, consistent with National Standard 9.

Section 3.8 of the Analysis identifies the potential for small increases in the annual Chinook salmon PSC under this proposed rule relative to the status quo due to the increased flexibility to reapportion Chinook salmon PSC limits. The Council and NMFS concluded that the small scale of the potential PSC increases and effective PSC limits are consistent with the goals of Amendments 93 and 97. During years in which a CV sector is constrained by Chinook salmon PSC and receives a Chinook salmon PSC reapportionment, the flexibility provided by this proposed rule could increase the aggregate amount of Chinook salmon that are taken across all GOA trawl fisheries.

Section 3.8 of the Analysis estimates that the most likely scenario for reapportionment under this proposed rule is from one or both of the pollock sectors to either the Rockfish CV sector or the Non-Rockfish CV sector. Because this proposed rule would cap the maximum amount that would be reapportioned, as described later in this preamble, the most likely scenario is that NMFS would reapportion no more than 2,000 Chinook salmon in any year, or approximately 6 percent of the current combined 32,500 Chinook salmon PSC limit for the Central and Western GOA trawl fisheries. The Council explained that while this proposed rule would allow for slightly higher Chinook PSC, that amount of PSC would still be within the combined annual 32,500 Chinook salmon PSC limit established by Amendments 93 and 97. The proposed rule therefore appropriately balances the objectives of the National Standards. See discussion below.

While the provisions of this proposed rule would likely result in some additional Chinook salmon PSC reapportionment, NMFS does not expect that this proposed rule

would provide incentives for participants to increase PSC use or ignore PSC limits established by Amendments 93 and 97. Three factors explain why sectors are unlikely to drastically reduce their effort to avoid Chinook salmon as a result of this proposed rule (see Analysis, Section 3.8). First, the reapportionment provisions in this proposed rule would not guarantee that Chinook salmon PSC limit reapportionments would be available in a given year. Chinook salmon PSC encounter levels are highly variable across years. The years in which a sector reaches its PSC limit are likely to be years in which other GOA trawl sectors are experiencing similarly high Chinook salmon PSC levels, thus reducing the availability of reapportionments to GOA trawl sectors. Second, NMFS inseason managers would not necessarily make an immediate reapportionment to a closed sector. Although this proposed rule could prevent a closure for a sector during an entire year, the possibility exists that fishing opportunities might be forgone for at least part of a year. Third, most reapportionment of Chinook salmon PSC limits are likely to be from the Central or Western GOA pollock sectors, and most of the Chinook salmon PSC use in those two sectors occurs later in the year. NMFS likely would not make large PSC limit reapportionments from either of these pollock sectors to a non-pollock sector until NMFS is able to reasonably project that a pollock sector's PSC use will be below its PSC limit for the remainder of the year.

The Council determined, and NMFS agrees, that authorizing NMFS to reapportion Chinook salmon PSC limits from one sector to another will not increase the likelihood of exceeding the current combined annual Chinook salmon PSC amount of 32,500. The individual PSC limits for the pollock sectors and non-pollock trawl sectors are unchanged by this action. As described above under the section titled "Management

of PSC Limits in the GOA,” NMFS would have sufficient and timely PSC data to close these fisheries and avoid exceeding the current combined annual amount of 32,500 Chinook salmon PSC.

ESA Incidental Take Threshold for Chinook Salmon

Under this proposed rule, the trawl fisheries would continue to avoid exceeding the annual Chinook salmon ESA threshold of 40,000 Chinook salmon that was identified in the incidental take statement accompanying the November 30, 2000, Biological Opinion (see **ADDRESSES**). Establishing a limit on the amount of Chinook salmon PSC that may be taken on an annual basis in the pollock and non-pollock trawl fisheries in the Central and Western GOA would accomplish that goal. This proposed rule would continue to limit the combined annual Chinook salmon PSC in the Central and Western GOA trawl fisheries to 32,500 Chinook salmon, much less than the 40,000 Chinook salmon threshold.

Balance Competing Social and Economic Interests: National Standards

The Council concluded and NMFS agrees that this proposed rule could mitigate the potential for Chinook salmon PSC limits implemented under Amendments 93 and 97 to cause adverse social and economic effects of an early fishery closure while continuing to minimize Chinook salmon PSC to the extent practicable. Reapportioning Chinook salmon PSC limits to a sector to avoid a fishing closure or to reopen a fishery may prevent negative impacts to harvesters, processors, and GOA coastal communities that depend on that groundfish resource.

Section 3.4.1.5 of the Analysis provides an example of the forgone revenue to harvesters and processors from the Chinook salmon PSC limit closure for the non-

Rockfish Program CV sector that would likely have been avoided under this proposed rule (see Analysis, Section 3.4.1.5). Based on average groundfish catch by the sector from 2010 through 2014, reapportionment of unused Chinook salmon PSC limits to the Non-Rockfish Program CV sector before May 2015 could have avoided the loss of approximately \$4.6 million in gross revenues to GOA trawl harvesters and \$11.3 million in gross revenues to processors. The reapportionment of Chinook salmon PSC limits to that sector could have also avoided adverse impacts to employees and businesses in the Kodiak Borough and City of Kodiak where most of the non-Rockfish Program CV sector catch is landed and processed.

NMFS determined that Amendments 93 and 97 were fully consistent with all 10 of the National Standards included in the Magnuson-Stevens Act (18 U.S.C. 1801(a)). In recommending this proposed rule, the Council and NMFS concluded that providing additional authority to NMFS to reapportion Chinook salmon PSC limits in the pollock and non-pollock trawl sectors is consistent with Amendments 93 and 97 and the National Standards, and it appropriately balances the National Standards' competing interests. The Council determined and NMFS agrees that reapportioning Chinook salmon PSC could benefit GOA trawl vessel operators, crew members, processors, support industries, and communities that are dependent on those fisheries, without modifying the overall PSC limits that were established to protect the Chinook salmon resource.

Of particular importance to this proposed rule are National Standards 1, 5, 6, 8, and 9 (see Analysis, Section 5.1). Section 5.1 of the Analysis describes the consistency of this proposed rule with all National Standards. This proposed rule increases the likelihood that groundfish TACs will be achieved, allows for management actions to

adjust to the variation in Chinook salmon PSC rates among sectors within a year, and decreases the likelihood that harvesters, processors, and communities are adversely affected by fishery closures due to Chinook salmon PSC limits. Those objectives are consistent with National Standards 1, 5, 6, 8, and 9.

The Council determined and NMFS agrees that this action should not revise observer deployment, coverage, or observer sampling estimation methods in the Central and Western GOA pollock and non-pollock trawl fisheries. NMFS' catch, bycatch, and PSC estimation methods are described in more detail in Section 3.3 of the Analysis.

Provisions of this Proposed Rule

The Council and NMFS considered a range of options that would limit the amount of unused Chinook salmon PSC that could be reapportioned to a sector and the number of sectors that could receive an apportionment (see Sections 3.5, 3.6, and 3.7 of the Analysis). This analysis included options that were considered by the Council, but not adopted. The remainder of this preamble describes only those provisions that would be implemented by this proposed rule.

Before making any reapportionment, this proposed rule specifies that NMFS would first project the amount of Chinook salmon PSC that would be unused by a sector during the remainder of the fishing year. Section 3.4.1.4 of the Analysis describes some of the factors that NMFS would consider in making its projections of Chinook salmon PSC use. Proposed regulations at § 679.21(h)(5)(iii) direct NMFS to publish any reapportionment of unused Chinook salmon PSC limits in the **Federal Register**.

The following paragraphs describe: 1) the sectors that can receive a reapportionment of unused Chinook salmon PSC; 2) the amount of unused Chinook

salmon PSC that can be reapportioned to a sector; and 3) non-substantive revisions to existing Chinook salmon PSC regulations to improve clarity.

This proposed rule would authorize NMFS to reapportion unused Chinook salmon PSC from any of the five pollock or non-pollock sectors to any other sector, except the Trawl C/P sector. The Council recommended and NMFS proposes excluding the Trawl C/P sector because data on historic PSC use indicates that the Trawl C/P sector is not likely to exceed its current Amendment 97 PSC limit (Section 3.8 of the Analysis). In addition, the Trawl C/P sector is eligible to earn and carry forward additional Chinook salmon PSC by qualifying for the Amendment 97 incentive buffer described earlier in this preamble (see Section 3.8 of the Analysis).

This proposed rule would limit, or “cap” the maximum amount of unused Chinook salmon PSC that a sector could receive on an annual basis. Specifically, a reapportioned amount cannot be greater than 50 percent of the Chinook salmon PSC limit initially assigned for that sector under either Amendment 93 or Amendment 97. For example, Amendment 97 initially assigned a PSC limit of 1,200 Chinook salmon to the Rockfish Program CV sector. Therefore, under this proposed rule, NMFS could not reapportion more than 600 unused Chinook salmon PSC from another sector to the Rockfish Program CV sector.

Section 679.21(h)(5)(iv)(A) through (D) of the proposed regulations specifies that the amount of unused Chinook salmon PSC limits reapportioned to an eligible sector may not exceed the following amounts:

- 3,342 Chinook salmon to the Western GOA pollock sector;
- 9,158 Chinook salmon to the Central GOA pollock sector;

- 600 Chinook salmon to the Rockfish Program CV sector; or
- 1,350 Chinook salmon to the Non-Rockfish Program CV sector

The Council determined and NMFS believes that these caps on the reapportionment will allow NMFS to reapportion Chinook salmon PSC when needed and justified by the circumstances.

In considering the selection of the 50 percent PSC reapportionment cap—as opposed to lower percentages that were considered—the Council and NMFS considered the difficulty, if not impossibility, of identifying the precise minimum amount of Chinook salmon PSC that each sector would need to keep operating and supporting its dependent stakeholders in all future years. The Council and NMFS concluded that selecting a smaller percentage (thus allowing for a smaller reapportionment) could preclude the reapportionment of sufficient amounts of Chinook salmon PSC to avoid fishery closures, particularly for sectors such as the Rockfish CV Sector that have small initial Chinook salmon PSC limits (See Analysis, Section 3.8).

This proposed rule would modify the existing reapportionment of Chinook salmon PSC limits from the Rockfish Program CV sector to the non-pollock Non-Rockfish Program CV sector on October 1. The current regulation at § 679.21(i)(4) states that the reapportionment of all but 150 of the unused Chinook salmon PSC limit remaining in the Rockfish Program CV sector’s annual limit of 1,200 fish must be reapportioned to the non-Rockfish Program CV sector on October 1.

The proposed regulations at § 679.21(h)(5)(i) provide NMFS with the discretion to reapportion Chinook salmon PSC from the Rockfish Program CV sector to the Non-Rockfish Program CV sector on October 1 with one exception: NMFS cannot

reapportion an amount of Chinook salmon PSC that would leave a remaining balance of less than 150 Chinook salmon PSC as of October 1. The removal of the requirement that NMFS reapportion all but 150 PSC from the Rockfish Program CV sector to the Non-Rockfish Program Sector on October 1 is consistent with the overall intent of this proposed rule (See Section 2.1 of the Analysis) because the Rockfish Program CV sector may require more than 150 Chinook salmon PSC after October 1 in future years if harvesting patterns change. Section 3.4.1.3.3 of the Analysis notes that most of the vessels participating in the Rockfish Program CV sector also prosecute late-year non-pollock fisheries (Pacific cod and flatfish). Providing additional management flexibility in the amount of Chinook salmon reapportioned to the Non-Rockfish CV sector on October 1 decreases the likelihood that participants would have to forgo catch in one non-pollock sector in order to participate in another sector.

The proposed regulations at § 679.21(h)(5)(ii) provide NMFS with the discretion to reapportion all unused Chinook salmon PSC limit from the Rockfish Program CV sector to the non-pollock Non-Rockfish Program CV sector on November 15 of each year but not to exceed 50 percent of the receiving sector's initial allocation. This additional flexibility is consistent with the overall intent of this proposed rule (See Section 2.1 of the Analysis) because the Rockfish Program CV sector may continue to need some Chinook salmon PSC limit after November 15 to prosecute late-year non-pollock fisheries. Providing additional management flexibility in the amount of Chinook salmon reapportioned the Non-Rockfish CV sector on November 15 of each year decreases the likelihood that participants would have to forgo catch in one non-pollock sector in order to participate in another sector.

This proposed rule would consolidate the regulations for Chinook salmon PSC limits in the GOA pollock and non-pollock trawl fisheries currently found at § 679.21(h) and (i) into § 679.21(h). The Chinook salmon PSC regulations for the GOA pollock fishery are currently found at § 679.21(h), and the Chinook salmon PSC regulations for the GOA non-pollock fisheries are currently found at § 679.21(i). This proposed rule would consolidate under § 679.21(h) all the current Chinook salmon PSC limits and management measures as well as the proposed regulations to authorize the reapportionment of Chinook salmon PSC limits among the GOA pollock and non-pollock trawl sectors. Consolidation of the Chinook salmon PSC limit regulations under § 679.21(h) would not result in any technical or substantive changes to the existing procedures, policies, and requirements that were implemented under Amendments 93 and 97. Consolidation would allow for more efficient, clear, and concise regulations for the entities regulated by this proposed rule. NMFS is not taking public comment on those policies and procedures previously implemented through Amendments 93 and 97.

Classification

Pursuant to sections 304(b) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 103, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866.

Initial Regulatory Flexibility Analysis

An Initial Regulatory Flexibility Analysis (IRFA) was prepared for this proposed rule, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of this proposed rule, why it is being considered, and the legal basis for this proposed rule are contained earlier in the preamble to this proposed rule and are not repeated here. A copy of the IRFA is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

A business primarily involved in finfish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual gross receipts not in excess of the applicable size standard for all its affiliated operations worldwide. Fishing vessels are considered small entities if their total annual gross receipts, from all their activities combined, are less than \$20.5 million (see Analysis, Section 4).

The entities directly regulated by this proposed rule are those federally permitted or licensed entities that participate in harvesting groundfish from the Federal or State-managed parallel pollock and non-pollock trawl fisheries of the Central and Western GOA. Fishing vessels are considered small entities if their total annual gross receipts, from all their activities combined, are less than \$20.5 million. Based on 2013 data, the IRFA identified 32 CVs that are defined as small entities. The IRFA also identified one trawl C/P that is defined as a small entity. Therefore, 33 small entities would be directly regulated by this proposed rule.

Neither processors nor other stakeholders are directly regulated by this proposed rule because they are not apportioned Chinook salmon PSC limits. The processors that

take deliveries of trawl-caught GOA groundfish, and other stakeholders not directly regulated by this proposed rule, are therefore excluded from the IRFA.

An IRFA requires a description of any significant alternatives to the proposed rule(s) that accomplish the stated objectives, are consistent with applicable statutes, and that would minimize any significant economic impact of the proposed rule on small entities. This proposed rule has several elements: 1) it establishes authority for NMFS to reapportion Chinook salmon PSC limits among the Central GOA pollock, Western GOA pollock Trawl C/P, Rockfish Program CV, and Non-Rockfish Program CV sectors; 2) it excludes the trawl C/P sector from receiving reapportioned unused Chinook salmon PSC limits; 3) it limits the amount of unused Chinook salmon PSC that can be reapportioned; and 4) it provides flexibility for NMFS to determine if it is appropriate to reallocate in excess of 150 unused Chinook salmon PSC, or a different amount, from the Rockfish Program CV sector to the Non-Rockfish Program CV sector.

During consideration of this proposed rule, the Council and NMFS evaluated a number of alternatives including 1) no action; 2) authorizing reapportionment of unused Chinook salmon PSC limit to the trawl C/P sector; and 3) limiting the percent of Chinook salmon PSC that can be reapportioned to or from a sector based on the amount of the Chinook salmon PSC initially assigned to a sector (between 10 percent and 50 percent of the initial Chinook salmon PSC limit). None of these alternatives met the objectives of this proposed rule and had a smaller impact on small entities.

The no action alternative fails to provide tools to reapportion Chinook salmon PSC limits to pollock and non-pollock trawl sectors to avoid fishery closures, and thus fails to meet the principal objective of this proposed rule. Authorizing trawl C/Ps to

receive reapportionments of Chinook salmon PSC limits would be unnecessary based on historical use of Chinook salmon PSC by that sector and the apportionments of PSC granted to that sector under Amendment 97.

Limiting the percent of Chinook salmon PSC that could be reapportioned from a sector could allow some sectors, such as the Non-Rockfish Program CV sector, to use more than twice the amount of Chinook salmon PSC than was initially apportioned under Amendment 97. That would be inconsistent with the goals of Amendment 103. Limiting the amount of Chinook salmon PSC that could be received in a reapportionment to 40 percent or less of the sector's initial limit could be insufficient to adequately reduce the number of trawl fishery closures from reaching a PSC limit. Thus, the Council determined, and NMFS agrees, that these smaller percentages would not be consistent with the goals of the previous GOA trawl PSC limits under Amendments 93 and 97, or with Amendment 103.

No duplication, overlap, or conflict between this proposed rule and existing Federal rules has been identified.

Collection-of-Information Requirements

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) that have been approved by the Office of Management and Budget (OMB).

OMB Control Number 0648-0515

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by Office of Management and Budget (OMB) under control number OMB Control Number 0648-0515. Public

reporting burden for eLandings landing report is estimated to average ten minutes per individual response and eLandings production report is estimated to average five minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Although the eLandings landing report and eLandings at-sea production report are included in the non-substantive revisions for this rule, this rulemaking imposes no additional burden or cost on the regulated community. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSEES**) and by e-mail to *OIRA_Submission@omb.eop.gov*, or fax to (202) 395-5806.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number. All currently approved NOAA collections of information may be viewed at:

http://www.cio.noaa.gov/services_programs/prasubs.html.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: June 10, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679-- FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, 3631 *et seq.*; and Pub. L. 108–447; Pub. L. 111-281

2. In § 679.7, revise paragraph (b)(8) to read as follows:

§ 679.7 Prohibitions.

* * * * *

(b) * * *

(8) Prohibitions specific to salmon discard in the Western and Central Reporting Areas of the GOA directed fisheries for groundfish. Fail to comply with any requirements of § 679.21(h).

* * * * *

3. In § 679.21:

a. Revise paragraph (h); and

b. Remove paragraph (i) to read as follows:

§ 679.21 Prohibited species bycatch management.

* * * * *

(h) *GOA Chinook Salmon PSC Management—(1) Applicability.* Regulations in this paragraph apply to trawl vessels participating in the directed fishery for groundfish in the Western and Central reporting areas of the GOA and processors receiving deliveries from these vessels.

(2) *GOA Chinook salmon PSC limits for the pollock sectors (fisheries).* (i) The annual PSC limit for vessels participating in the directed fishery for pollock in the Western reporting area of the GOA is 6,684 Chinook salmon.

(ii) The annual PSC limit for vessels participating in the directed fishery for pollock in the Central reporting area of the GOA is 18,316 Chinook salmon.

(3) *GOA non-pollock trawl sectors.* For the purposes of accounting for the annual Chinook salmon PSC limits at paragraph (h)(4)(i) of this section, the non-pollock trawl sectors are:

(i) *Trawl catcher/processor sector*. The Trawl catcher/processor sector is any catcher/processor vessel fishing for groundfish, other than pollock, with trawl gear in the Western or Central GOA reporting area and processing that groundfish at sea;

(ii) *Rockfish Program catcher vessel sector*. The Rockfish Program catcher vessel sector is any catcher vessel fishing for groundfish, other than pollock, with trawl gear in the Western or Central reporting area of the GOA and operating under the authority of a Central GOA Rockfish Program CQ permit assigned to the catcher vessel sector; and

(iii) *Non-Rockfish Program catcher vessel sector*. The Non-Rockfish Program catcher vessel sector is any catcher vessel fishing for groundfish, other than pollock, with trawl gear in the Western or Central reporting area of the GOA and not operating under the authority of a Central GOA Rockfish Program CQ permit assigned to the catcher vessel sector.

(4) *GOA Chinook salmon PSC limits for non-pollock trawl fisheries*. (i) The annual Chinook salmon PSC limits in the Western and Central reporting areas of the GOA for the sectors defined in paragraph (h)(3) of this section are as follows:

For the following sectors defined in § 679.21(h)(3)...	The total Chinook salmon PSC limit in each calendar year is...	Unless, the use of the Chinook salmon PSC limit for that sector in a calendar year does not exceed...	If so, in the following calendar year, the Chinook salmon PSC limit for that sector will be...
(A) Trawl catcher/processor sector	3,600	3,120	4,080
(B) Rockfish Program catcher vessel sector	1,200	N/A	
(C) Non-Rockfish Program catcher vessel sector	2,700	2,340	3,060

(ii) For the Trawl catcher/processor sector defined in paragraph (h)(3)(i) of this section:

(A) The seasonal PSC limit prior to June 1 is 2,376 Chinook salmon if the annual Chinook salmon PSC limit is 3,600. The seasonal PSC limit prior to June 1 is 2,693 Chinook salmon if the annual Chinook salmon PSC limit is 4,080.

(B) The number of Chinook salmon PSC available on June 1 through the remainder of the calendar year is the annual Chinook salmon PSC limit specified for the Trawl catcher/processor sector minus the number of Chinook salmon used by that sector prior to June 1 and any Chinook salmon PSC limit reapportioned to another sector specified at paragraph (h)(5)(iii) of this section prior to June 1.

(5) *Inseason reapportionment of Chinook salmon PSC limits.* (i) On October 1, the Regional Administrator may reallocate any unused Chinook salmon PSC available to the Rockfish Program catcher vessel sector, defined in paragraph (h)(3)(ii) of this section, in excess of 150 Chinook salmon to the Non-Rockfish Program catcher vessel sector, but not to exceed the Non-Rockfish Program catcher vessel sector's limit on Chinook salmon PSC reapportionment as defined in paragraph (h)(5)(iv)(D) of this section.

(ii) On November 15, the Regional Administrator may reallocate all remaining Chinook salmon PSC available to the Rockfish Program catcher vessel sector, defined in paragraph (h)(3)(ii) of this section, to the Non-Rockfish Program catcher vessel sector, but not to exceed the Non-Rockfish Program catcher vessel sector's limit on Chinook salmon PSC reapportionment as defined in paragraph (h)(5)(iv)(D) of this section.

(iii) Any Chinook salmon PSC limit in paragraphs (h)(2) or (h)(4) of this section projected by the Regional Administrator to be unused during the remainder of the fishing year may be reapportioned subject to the Chinook salmon PSC limits in paragraphs (h)(5)(iv)(A) through (D) of this section for the remainder of the fishing year. NMFS will publish notification in the **Federal Register** announcing any Chinook salmon PSC limit reapportionments in the GOA.

(iv) On an annual basis, NMFS shall not reapportion an amount of unused Chinook salmon PSC greater than the following amounts:

(A) 3,342 Chinook salmon to vessels participating in the directed fishery for pollock in the Western reporting area of the GOA;

(B) 9,158 Chinook salmon to vessels participating in the directed fishery for pollock in the Central reporting area of the GOA;

(C) 600 Chinook salmon to the Rockfish Program catcher vessel sector defined in paragraph (h)(3)(ii) of this section; and

(D) 1,350 Chinook salmon to the Non-Rockfish Program catcher vessel sector defined in paragraph (h)(3)(iii) of this section.

(6) *Salmon retention.* (i) The operator of a vessel, including but not limited to a catcher vessel or tender, must retain all salmon until delivered to a processing facility.

(ii) The operator of a catcher/processor or the owner and manager of a shoreside processor or SFP receiving groundfish deliveries from trawl vessels must retain all salmon until the number of salmon by species has been accurately recorded in the eLandings at-sea production report or eLandings groundfish landing report.

(iii) The owner and manager of a shoreside processor or SFP receiving pollock deliveries must, if an observer is present, retain all salmon until the observer is provided the opportunity to count the number of salmon and collect scientific data or biological samples from the salmon.

(iv) The operator of a catcher/processor must retain all salmon until an observer is provided the opportunity to collect scientific data or biological samples from the salmon.

(7) *Salmon discard*. Except for salmon under the PSD program defined in § 679.26, all salmon must be discarded after the requirements at paragraphs (h)(6)(ii) or (h)(6)(iii) of this section have been met.

(8) *GOA Chinook salmon PSC closures*. If, during the fishing year, the Regional Administrator determines that:

(i) Vessels participating in the directed fishery for pollock in the Western reporting area or Central reporting area of the GOA will reach the applicable Chinook salmon PSC limit specified for that reporting area under paragraph (h)(2) of this section or the applicable limit following any reapportionment under paragraph (h)(5) of this section, NMFS will publish notification in the **Federal Register** closing the applicable regulatory area to directed fishing for pollock;

(ii) Vessels in a sector defined in paragraph (h)(3) of this section will reach the applicable Chinook salmon PSC limit specified for that sector under paragraph (h)(4)(i) of this section or the applicable limit following any reapportionment under paragraph (h)(5) of this section, NMFS will publish notification in the **Federal Register** closing directed fishing for all groundfish species, other than pollock, with trawl gear in the Western and Central reporting areas of the GOA for that sector; or

(iii) Vessels in the Trawl catcher/processor sector defined in paragraph (h)(3)(i) of this section will reach the seasonal Chinook salmon PSC limit specified at paragraph (h)(4)(ii)(A) of this section prior to June 1, NMFS will publish notification in the **Federal Register** closing directed fishing for all groundfish species, other than pollock, with trawl gear in the Western and Central reporting areas of the GOA for all vessels in the Trawl catcher/processor sector until June 1. Directed fishing for groundfish species, other than pollock will reopen on June 1 for the Trawl catcher/processor sector defined in paragraph (h)(3)(i) of this section with the Chinook salmon PSC limit determined at paragraph (h)(4)(ii)(B) of this section unless NMFS determines that the amount of Chinook salmon PSC available to the sector is insufficient to allow the sector to fish and not exceed its annual Chinook salmon PSC limit.

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